

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IRONWOOD CAPITAL LTD.,

Plaintiff,

v.

Civil Action No. 04 CV 10726 PBS

IRONWOOD CAPITAL MANAGEMENT,  
LLC; IRONWOOD PARTNERS, LLC; and  
ICM SERIES TRUST,

Defendants.

**INITIAL DISCLOSURE STATEMENT  
OF PLAINTIFF IRONWOOD CAPITAL LTD.**

Pursuant to FED. R. CIV. P. 26(a)(1) and Local Rules 26.1 and 26.2(A), plaintiff Ironwood Capital Ltd. ("Plaintiff"), hereby makes the following initial disclosures. Plaintiff expressly reserves the right to supplement, amend, or correct these disclosures to the extent necessary to make them accurate if they learn that the disclosures are somehow inaccurate or incomplete.

**(A) INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION  
RELEVANT TO DISPUTED FACTS**

The following individuals are likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings:

1. Mr. Marc A. Reich  
President  
Ironwood Capital Management  
200 Fisher Drive  
Avon, Connecticut 06001

2. Ms. Caroline Galiette  
Managing Director  
Ironwood Capital Management  
200 Fisher Drive  
Avon, Connecticut 06001
3. Richard M. Skiba  
Financial Manager  
Ironwood Capital Management  
200 Fisher Drive  
Avon, Connecticut 06001
4. Joe Ganley  
Ironwood Equity Fund  
18 Tremont Street  
Boston, Massachusetts 02108
5. James G. Binch  
CEO & President  
Memry Corp.  
3 Berkshire Boulevard  
Bethel, Connecticut 06801
6. Dara Podber  
Cleveland Capital
7. Chana Schoenberger  
Forbes Magazine  
60 5<sup>th</sup> Avenue, 4<sup>th</sup> Floor  
New York, New York 10011
8. Valerie Russo  
Patriot Ledger  
(781) 331-5442
9. SNL Financial  
321 East Main Street  
Charlottesville, VA 22902
10. Luke Goirdano  
Hammer Capital Management, Inc.  
805-564-8785

11. Warren Isabelle and Gary Saks  
Ironwood Capital Management LLC  
21 Custom House St.  
Boston, Massachusetts 02110

**(B) DOCUMENTS RELEVANT TO DISPUTED FACTS**

The following categories of documents, within the possession, custody and/or control of Plaintiff and kept in the ordinary course of business, are relevant to the disputed facts alleged with particularity in the pleadings:

- Documents concerning Plaintiff's adoption and use of the mark  
IRONWOOD and/or IRONWOOD CAPITAL ("IRONWOOD CAPITAL Mark");
- Documents concerning Plaintiff's adoption and use of the IRONWOOD CAPITAL Mark;
- Documents concerning Plaintiff's services offered under and in connection with the IRONWOOD CAPITAL Mark;
- Documents concerning Plaintiff's customers;
- Documents concerning Plaintiff's advertising and/or promotion of its services under and in connection with the IRONWOOD CAPITAL Mark;
- Documents concerning instances of actual confusion; and
- Correspondence between the parties concerning Defendants' use of the alleged colorable imitation of Plaintiff's IRONWOOD CAPITAL Mark.

The following categories of documents, which Plaintiff believes to be within the possession, custody and/or control of Defendants are relevant to the disputed facts alleged with particularity in the pleadings:

- Defendants' records relating or referring to Defendants' adoption and/or use of Plaintiff's IRONWOOD CAPITAL Mark, or any variations, colorable imitations or derivatives thereof;
- Defendants' records pertaining to their total profits realized through the offering, promoting and rendering of their services under and in connection with their use of Plaintiff's IRONWOOD CAPITAL Mark or any variations, colorable imitations or derivatives thereof;
- Defendants' records pertaining to their services and customers;
- Defendants' records pertaining to instances of actual confusion;
- Defendants' records pertaining to, referring and/or relating to Plaintiff; and
- Third party documents referring or relating to instances of actual confusion.

**(C) COMPUTATION OF DAMAGES**

As of the date of this filing, Plaintiff has not computed any element of its damage claims. Notwithstanding the foregoing, Plaintiff reserves the right to supplement its response after it has had the opportunity to review Defendants' records pertaining to Defendants' profits realized under and in connection with their use of the alleged colorable imitation of Plaintiff's IRONWOOD CAPITAL Marks that would be the

measure of damages sought by Plaintiff in this action (whether or not such damages are awarded).

**(D) INSURANCE AGREEMENTS**

Plaintiff is covered by Insurance Policy No. OHE-7232847-00 from Hanover Insurance Company that may satisfy all or part of any judgment against Plaintiff and sought by Defendants through their counterclaims. Plaintiff awaits information concerning Defendants' insurance policy number and coverage.

**(E) STATEMENTS OBTAINED FROM OPPOSITION PARTIES, OFFICERS, DIRECTORS AND EMPLOYEES**

Plaintiff has obtained no sworn statements from any officers, directors or employees of the defendants although the parties had corresponded generally concerning Plaintiff's allegations.

**(F) GOVERNMENTAL AGENCIES THAT HAVE INVESTIGATED THE TRANSACTION OR OCCURRENCE**

Plaintiff is unaware of any governmental investigation regarding the facts alleged in this case.

**SIGNED UNDER THE PENALTIES OF PERJURY THIS 22 DAY OF JUNE 2004.**



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Marc A. Reich  
on behalf of Plaintiff  
Ironwood Capital Management LLC

**RESPECTFULLY SUBMITTED,**

IRONWOOD CAPITAL LTD.,  
Plaintiff,  
By its attorneys:



Gary R. Greenberg (BBO # 209420)  
GREENBERG TRAURIG LLC  
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Boston, Massachusetts 02110  
(617) 310-6000

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